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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,519	08/07/2003	Masaru Saruwatari	03500.011982.1	8443
5514	7590	11/09/2006	EXAMINER	
FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			POON, KING Y	
			ART UNIT	PAPER NUMBER
			2625	

DATE MAILED: 11/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/635,519

Applicant(s)

SARUWATARI ET AL.

Examiner

King Y. Poon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20,21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20,21 and 23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☒ Certified copies of the priority documents have been received in Application No. 08/813,288.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 20, 21, 23-26 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 20, 21, 23-26: The claims is claiming "...the command is related to other than the status of said data communication apparatus..."

As Kumano, column 4, lines 43-58, discussed, all commands are codes (signal representing 0 or 1), and all computers (inherent properties of how computer operates) recognized signals by the arrangement of the 0 and 1. Clearly, the communication apparatus can receive all kind of 0 and 1 including print data, noise etc. The apparatus would decode the 0 and 1 and recognized it is a command and not print data and noise. When the signal is command and not other data, the apparatus would then add information. Since the command received by the apparatus would cause the apparatus to add status information, the command is related to the status. Therefore, it is unclear to the examiner the meaning of the claimed limitation "...the command is related to other than the status of said data communication apparatus..."

In applying prior art rejection, the limitation "...the command is related to other than the status of said data communication apparatus..." is being interpreted as the command is not only related to causing the apparatus of adding status information, but

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also related to other things such as data size, device number, sequence number, destination identifier etc.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 20, 21, 23, 25, 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumano et al (US 5,706,210) in view of Hayashi et al (US 5,485,246).

Regarding claims 20, 25: Kumano teaches a data communication apparatus (1, fig. 1) comprising: a connector, (that part of 8 that is connected to 14, fig. 2) arranged to connect to a monitoring device (3, fig. 1); a receiver (the data receiving part of 14, fig. 2), arranged to receive a command (fig. 3A) from the monitoring device through said connector, an analysis unit (the device or program that used to analyze the header, column 4, lines 43-60), arranged to analyze the command received by said receiver; a transmitter (the data transmitting part of 14, fig. 2), arranged to transmit to the monitoring device a response (fig. 3B) in accordance with an analysis result of said analysis unit; and a controller (status management unit, column 3, lines 45-40), arranged to add information unrelated to the command (31, 32, 33, 34, fig. 3B, the information that are related to the command, are the header, column 4, lines 30-33)

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analyzed by said analysis unit to the response transmitted to the monitoring device, and to cause said transmitter to transmit the response with the added information concurrently, wherein said controller adds the information, which is related to a status of the data communication apparatus (column 4, lines 30-42), to a response (fig. 3B) corresponding to the command when the command is related to other than status of said data communication apparatus (80a, 80b, 80d, etc, fig. 9D, also see 112 second rejection) to prompt the monitoring device to issue an additional command for discriminating the status (column 5, lines 5-10, fig. 4).

Kumanto does not teach to use a host computer for communicating/monitoring command and response to a data communication apparatus.

Hayashi, in the same area of monitoring status, teaches to use a host computer for sending command and receiving response, and used as a status monitoring device (fig. 60, column 29, lines 15-30, column 28, lines 35-40).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Kumanto to include: the data communication device communicating with a host computer monitoring device.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Kumanto by the teaching of Hayashi because: a host computer is widely available and would have allowed users to easily practice Kumanto's invention; and (b) it would have increase the usage of Kumanto to allow the system of Kumanto to use a host computer as the monitoring device.

Regarding claim 26: Please see discussion of claim 20. Hayashi teaches the communication apparatus (CCU connected to image forming apparatus, fig. 58); the data communication apparatus is controlled by a storage medium storing a computer readable program (column 14, lines 1-5).

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Kumanto to include: the data communication device controlled by a storage medium storing a computer readable program.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Kumanto by the teaching of Hayashi because: a) a program would make the system highly adaptable to all situation; b) it would have allowed the system to be mass produced to reduce cost.

Regarding claim 21: Kumanto teaches wherein the added information is information indicating that a change in a status of said data communication apparatus has occurred (difference, column 4, lines 60-65).

Regarding claim 23: Kumano teaches a data communication apparatus according to Claim 20, further comprising a storage unit (12, fig. 2), arranged to store status information indicating a status of said data communication apparatus, wherein said transmitter transmits the status information stored in said storage unit when said receiver receives a command requesting the status of said data communication apparatus (column 4, lines 65-68, updated status information).

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5. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kumano et al (US 5,706,210) in view of Hayashi et al (US 5,485,246) as applied to claim 20, 23 above, and further in view of Sato (US 5,644,405).

Regarding claim 24: Kumano does not teaches the data communication apparatus further comprising a reader, a printer, and a facsimile communication unit, wherein said storage unit stores information indicating a status of said reader, said printer, and said facsimile communication unit.

Hayashi teaches to monitoring the status of image forming apparatus (facsimile machine inherently is an image forming apparatus) (also see column 28, lines 30-35, Hayashi); Sato teaches to monitor the status of a facsimile machine which include the status of the reader, the printer and the communication unit (fig. 1, column 9, lines 4-20, fig. 4, column 7, lines 65-67, column 8, lines 1-5).

Therefore, it would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Kumano to include: the data communication apparatus further comprising a reader, a printer, and a facsimile communication unit, wherein said storage unit stores information indicating a status of said reader, said printer, and said facsimile communication unit.

It would have been obvious to a person with ordinary skill in the art at the time the invention was made to have modified Kumano because it would have allowed the status monitoring technique of Kumano to solve the status monitoring problem of Hayashi and Sato such that the system of Hayashi and Sato would benefit by reducing

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traffic on the network to prevent system crashes and increase the speed of communication.

Response to Arguments

6. Applicant's arguments filed 8/30/2006 have been fully considered but they are not persuasive.

With respect to applicant's argument that the cited reference does not teach "wherein said controller adds the information, which is related to a status of said data communication apparatus, to a response corresponding to the command when the command is related to other than the status of said data communication apparatus, to prompt the host computer to issue an additional command for discriminating the status" has been considered.

In reply: As Kumano, column 4, lines 43-58, discussed, all commands are codes (signal representing 0 or 1), and all computers (inherent properties of how computer operates) recognized signals by the arrangement of the 0 and 1. Clearly, the communication apparatus can receive all kind of 0 and 1 including print data, noise etc. The apparatus would decode the 0 and 1 and recognized it is a command and not print data and noise. When the signal is command and not other data, the apparatus would then add information. Since the command received by the apparatus would cause the apparatus to add status information, the command is related to the status. Therefore, it is unclear to the examiner the meaning of the claimed limitation "...the command is related to other than the status of said data communication apparatus..."

In applying prior art rejection, the limitation "...the command is related to other than the status of said data communication apparatus..." is being interpreted as the command is not only related to causing the apparatus of adding status information, but also related to other things such as data size, device number, sequence number, destination identifier etc.

Kumano teaches wherein said controller adds the information, which is related to a status of the data communication apparatus (column 4, lines 30-42), to a response (fig. 3B) corresponding to the command when the command is related to other than status of said data communication apparatus (80a, 80b, 80d, etc, fig. 9D, also see 112 second rejection) to prompt the monitoring device to issue an additional command for discriminating the status (column 5, lines 5-10, fig. 4).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

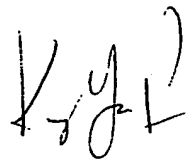
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to King Y. Poon whose telephone number is 571-272-7440. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Coles can be reached on 571-272-7402. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

November 5, 2006


KING Y. POON
PRIMARY EXAMINER